

RESOLUTION PROVIDING FOR THE HANDLING OF CLAIMS;
AUTHORIZING THE CITY MANAGER TO COMPROMISE OR SETTLE CLAIMS
AGAINST THE CITY AND ITS OFFICERS AND EMPLOYEES; AND
AUTHORIZING TOLLING AGREEMENTS WITH RESPECT TO CLAIMS BY OR
AGAINST THE CITY AND ITS OFFICERS AND EMPLOYEES

WHEREAS, from time to time claims are made against the City for alleged damage to property, injury to person, or deprivation of some right;

WHEREAS, the City may have procured liability insurance to protect itself, and its officers, and employees, in certain areas of the City's municipal functions, and has also developed a risk retention program with respect to many areas of the City's municipal functions;

WHEREAS, it is in the public interest to provide for the prompt investigation and disposition, settlement, or compromise of such claims without the delay occasioned by bringing such matters in every instance before the City Council; and

WHEREAS, tolling agreements, which can facilitate negotiations, may need to be entered into before it is practical to bring the matter to the City Council; now, therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

SECTION 1. The City Manager shall designate one or more subordinate employees, or one or more properly licensed, independent professional adjusters, to receive and investigate claims made against the City of Durham, its officers, or employees. The City Manager shall determine whether any such claim arises from an accident, occurrence, or omission which is covered by existing liability insurance, and shall notify the insurance carrier in accordance with the notice requirements of the policy. If the claim is uninsured, or if the insurance policy requires the City to administer the claim, then the City Manager shall promptly investigate and process such claim in accordance with the provisions of this resolution.

SECTION 2. The City Manager shall receive and investigate every judicial or administrative process served upon the City or upon a City officer or employee. The City Manager shall determine whether liability insurance coverage is available, or whether the claim or action is one appropriate for processing under the risk retention program. Where liability insurance coverage is available, or the claim or action is appropriate for processing under the retained risk program, the judicial or administrative process shall be forwarded promptly by the City Manager to the appropriate insurance carrier, or processed as a retained risk claim or action. A copy of every judicial or administrative process shall be forwarded to the City Attorney's office upon receipt by the City Manager. The City Attorney shall undertake or otherwise provide for the City's defense, and the City Manager shall promptly inform the City Attorney with regard to applicable insurance.

SECTION 3. The City Manager is authorized to compromise or settle any claim for \$50,000 or less. Before doing so, the City Manager shall , take into account the factors that the

City Manager considers appropriate including the factual and legal basis for the claim and the cost of defense.

SECTION 4. The City Manager shall consult with the City Attorney as to procedures for the settlement or compromise of claims pursuant to this resolution.

SECTION 5. The City Manager shall maintain, or cause to be maintained, a record of every claim which is settled or compromised pursuant to this resolution. Such records shall be in sufficient detail to disclose the nature of the settlement, the amount and terms of the settlement, and the parties thereto. The records so maintained shall be available for public inspection in the manner provided by law. The City Manager shall make a report to the City Council on a quarterly basis concerning claims which the City Manager has settled or compromised pursuant to this resolution during the preceding 90- day period.

SECTION 6. The City Manager may enter into tolling agreements with respect to claims that may be asserted against the City and its officers and employees, and with respect to claims that may be asserted by the City and its officers and employees.

SECTION 7. In this resolution, “claim” includes claims that may be asserted in administrative proceedings, special proceedings, and civil actions.

SECTION 8. Resolution 8810 (RESOLUTION PROVIDING FOR THE DISPOSITION OF CLAIMS AND AUTHORIZING THE CITY MANAGER TO DENY, COMPROMISE, OR SETTLE CLAIMS AGAINST THE CITY, ITS OFFICERS, AND EMPLOYEES, WITHIN CERTAIN SPECIFIED LIMITS), adopted October 1, 2001, is repealed.

SECTION 9. This resolution is effective upon passage.